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14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 San Francisco Division

18 FEDERAL TRADE COMMISSION,

19 Plaintiff,

20 v.

21 WELLNESS SUPPORT NETWORK,
22 INC., a corporation,

23 ROBERT HELD, individually and as
24 an officer of Wellness Support
25 Network, Inc., and

26 ROBYN HELD, individually and as
27 an officer of Wellness Support
28 Network, Inc.,

Defendants.

Case No. 3:10-cv-4879 JCS

Hearing Date: TBD
Courtroom A, 15th Floor

**SECOND STIPULATION TO
REVISE SCHEDULE;
DECLARATION OF LAURA
FREMONT IN SUPPORT**

22 **I. INTRODUCTION AND PROCEDURAL HISTORY**

23 On December 15, 2010, pursuant to a stipulation by the parties to revise
24 the initial schedule for this matter (Dkt #7), the Court entered an order (Dkt #8)
25 setting deadlines for, among other things, the parties to meet and confer re initial
26 disclosures, file a Rule 26(f) report, complete initial disclosures, and file a Case
27 Management Statement. The parties had requested revision of the initial
28 schedule to permit time for the Court to first rule on expected motions by

1 defendants Wellness Support Network, Inc., Robert Held, and Robyn Held
2 ("defendants") with regard to the Federal Trade Commission's Complaint (Dkt
3 #1), and any motions filed by the Federal Trade Commission in response to
4 defendants' expected Answer.

5 On December 29, 2010, defendants filed a motion to dismiss (Dkt #9) and
6 the hearing thereon was scheduled for February 4, 2011. On January 24, 2011,
7 the Court continued the hearing to April 8, 2011 (Dkt #20). Accordingly, the
8 current deadlines as set by the Court's prior order (Dkt #8) will take place before
9 the Court makes a determination regarding the Defendants' pending motion and
10 before the Defendants have filed their answers to the Complaint. As noted in the
11 parties' previous stipulation (Dkt #7), the parties believe that the Court's rulings
12 on matters relating to the pleadings will affect the focus and framing of issues in
13 this case. Once the Court has made its determinations, the parties will be able to
14 more accurately assess and agree upon such matters as the facts and legal issues
15 that remain in dispute, prospects for settlement, narrowing of issues, and other
16 matters required to be addressed in the parties' Case Management Statement.
17 Thus, in order to preserve the limited resources of the parties and of the Court,
18 and pursuant to L.R. 6-2 and L.R. 7-12, the parties respectfully request that the
19 deadlines set in the Court's Order (Dkt #8) be extended by an additional 60 days.
20 The proposed schedule is set forth below.

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1 **II. PROPOSED REVISED SCHEDULE**

2 The parties propose the following modifications to the current schedule for
 3 this case:

Event	Current Date	Proposed Date
Last day to: • meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan • file ADR Certification • file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference	4/14/11 [pursuant to <i>Stipulation to Revise Schedule; Declaration of Laura Fremont in Support (signed by the Court on 12/15/10) (Dkt #8)</i>]	6/14/11
Last day to: • file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report, and file Case Management Statement	4/28/11 [pursuant to <i>Stipulation to Revise Schedule; Declaration of Laura Fremont in Support (signed by the Court on 12/15/10) (Dkt #8)</i>]	6/28/11

Initial Case Management Conference	5/6/11 [pursuant to <i>Stipulation to Revise Schedule; Declaration of Laura Fremont in Support (signed by the Court on 12/15/10)</i> (Dkt #8)]	7/8/11 1:30 p.m.
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IV. CONCLUSION

The parties respectfully request that the Court revise the schedule as set forth above.

Respectfully submitted,

DATED: January 26, 2010

/s/ Laura Fremont _____

LAURA FREMONT
KENNETH H. ABBE
Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

(The filer attests that concurrence in the filing of this document has been obtained from each of the other signatories.)

DATED: January 26, 2010

/s/ Leslie Holmes _____
LESLIE HOLMES
Attorney for Defendants
WELLNESS SUPPORT NETWORK, INC.,
ROBERT HELD, and ROBYN HELD

/s/Mitchell S. Fuerst _____
MITCHELL S. FUERST
ANDREW S. ITTLEMAN
Attorneys for Defendants
WELLNESS SUPPORT NETWORK, Inc.,
ROBERT HELD, and ROBYN HELD

PURSUANT TO STIPULATION, IT IS SO ORDERED

DATED: 01/26/11

JOSEPH C. SPERO
UNITED STATES MAGISTRATE JUDGE

1 **DECLARATION OF LAURA FREMONT**
 2 **IN SUPPORT OF SECOND STIPULATION TO REVISE SCHEDULE**

3 I, LAURA FREMONT, declare as follows:

4 1. I am an attorney with the Federal Trade Commission, the plaintiff in
 5 the above-captioned action. I make this Declaration in support of the foregoing
 6 Second Stipulation to Revise Schedule. I have personal knowledge of each of the
 7 following facts, and would and could competently testify thereto if called upon to
 8 do so in a court of law.

9 2. **Reasons for the requested enlargement of time (Local Rule 6-**
 10 **2(a)(1)):** The current deadlines to meet and confer regarding initial disclosures
 11 and discovery, and to complete initial disclosures and to file a Case Management
 12 Statement will take place before the Court makes a determination regarding
 13 papers responsive to the Complaint, which were filed by Defendants on
 14 December 29, 2010, and before the Court makes a determination regarding any
 15 motions Plaintiff may file relating to Defendants' Answer. The parties believe
 16 that the Court's rulings on matters relating to the pleadings will affect the focus
 17 and framing of issues in this case. Once the Court has made its determinations,
 18 the parties will be able to more accurately assess and agree upon such matters as
 19 discovery, scheduling, the facts and legal issues that remain in dispute, prospects
 20 for settlement, narrowing of issues, and other matters the parties are required to
 21 address in their Case Management Statement.

22 3. **Disclosure of all previous time modifications (Local Rule 6-**
 23 **2(a)(2)):** The FTC filed its Complaint (Dkt #1) in this matter on October 28,
 24 2010. Defendants' initial deadline to respond to the Complaint was November
 25 26, 2010. On November 24, 2010, the parties filed a stipulation (Dkt #5) to
 26 extend that deadline to December 29, 2010; to set the deadline for Plaintiff to file
 27 its opposition to any papers filed by Defendants responsive to the Complaint to
 28 January 14, 2011; and to set the hearing on such matters for February 4, 2011.

1 The Court so ordered on November 29, 2010 (Dkt #6).

2 On December 15, 2010, the parties filed a stipulation (Dkt #7) to modify
3 the times set in the Court's *Order Setting Initial Case Management Conference*
4 and *ADR Deadlines* (Dkt #3). The Court so ordered on December 15, 2010 (Dkt
5 #8).

6 On January 24, 2011, the Court continued the hearing on Defendants'
7 motion to dismiss (Dkt #9) from February 4, 2011 to April 8, 2011, giving rise to
8 the parties' current stipulation requesting modification of the deadlines which had
9 been set to coordinate with the original hearing date.

10 **4. Description of the effect the requested time modification would**
11 **have on the schedule for the case (Local Rule 6-2(a)(3)):** The proposed time
12 modifications would extend the time for those matters set in the order issued by
13 the Court (Dkt #8) pursuant to *Stipulation to Revise Schedule; Declaration of*
14 *Laura Fremont in Support* (Dkt #7), but the parties believe doing so would add to
15 the long-term efficient conduct of this case. The tasks to be performed as
16 required by the *Order Setting Initial Case Management Conference and ADR*
17 *Deadlines* would be performed more accurately and efficiently once the Court
18 has made its determinations on motions relating to the pleadings.

19 I declare under penalty of perjury under the laws of the United States of
20 America that the foregoing is true and correct, and that this Declaration was
21 executed on January 26, 2011, at San Francisco, California.

22
23 _____ /s/Laura Fremont _____
24 Laura Fremont
25 Attorney for Plaintiff
Federal Trade Commission
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1 CERTIFICATE OF SERVICE

2 This is to certify that on January 26, 2011, I served a true and correct copy
3 of the attached SECOND STIPULATION TO REVISE SCHEDULE;
4 DECLARATION OF LAURA FREMONT IN SUPPORT via the electronic
5 filing system for the U.S. District Court for the Northern District of California,
6 and via electronic mail to:

7
8 Leslie Holmes, Esq.
Leslie@HULawyers.com
9 Holmes & Usoz
Attorney for Defendants
10

11 and by sending the attached document via email to:

12
13 Mitchell S. Fuerst, Esq
mfuerst@fuerstlaw.com
14

15 and

16 Andrew S. Ittleman, Esq
aittlem@fuerstlaw.com
17 Fuerst Ittleman PL
Attorneys for Defendants
18

19 I swear under penalty of perjury that the foregoing is true and correct.

20 Executed on January 26, 2011, at San Francisco, California.

21
22 /s/ Laura Fremont

23
24 _____
25 Laura Fremont
26 Attorney
27 Federal Trade Commission
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